Remarks

In response to the Office Action mailed on April 19, 2007, the Applicant respectfully requests reconsideration in view of the following remarks. In the present application, claim 28 has been canceled without prejudice or disclaimer and claims 1, 6, 20, 21, 25, and 26 have been amended to specify receiving a command in the first diagnostic agent to perform at least one of rebooting the media delivery device, upgrading an operating system in the media deliver device, and performing a remedial action related to the network connection, in response to a determination that the network connection is not functional. Support for this claim may be found on page 17, lines 11-16 in the Specification. No new matter has been added.

Claims 1, 2, 4-10, 12-22, and 24-36 are pending in the application. In the Office Action, claims 1, 2, 4-10, 12-22 and 24-26 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Middeke et al. (US 6,445,907, hereinafter "Middeke") in view of Herrbach et al. (US 6,269,150, hereinafter "Herrbach").

Applicants' Statement of the Substance of the Interview

A telephonic interview between the undersigned representative for the Applicant, the Examiner, and the Examiner's supervisor was held on August 8, 2007 to discuss the rejection of the pending independent claims in view of the cited references and to discuss a proposed amendment for the purposes of further prosecution. With respect to the rejection of the pending independent claims, the Examiners maintained the position presented in the Office Action regarding the "test case cleanup," discussed in the Herrbach reference, as disclosing the removal of diagnostic agents specified in the claims. The Examiners suggested further amending the claims to provide further details as to the removal of the diagnostic agents. The proposed amendment specified the diagnostic agent receiving a command to perform at least one of

rebooting the at least one device, upgrading an operating system in the at least one device, and performing a remedial action related to the network connection, in response to a determination that the network connection is not functional. The Examiners agreed with the undersigned that the proposed amendment appeared to overcome the cited art of record and would further prosecution if presented in Applicants' next response.

<p style="text-align: center;">**Claim Rejections - 35 U.S.C. §103**</p>

In the Office Action, claims 1, 2, 4-10, 12-22, and 24-36 are rejected as being unpatentable over Middeke in view of Herrbach. Claim 28 has been canceled rendering the rejection of this claim as moot. The rejection of the remaining claims is respectfully traversed.

Amended independent claim 1 specifies a method for analyzing the operation of a media delivery device. The method includes determining whether a network connection is functional, determining whether a first diagnostic agent is functional, in response to a determination that the network connection is functional, causing the first diagnostic agent to collect diagnostic data associated with the media delivery device, in response to a determination that the first diagnostic agent is functional, analyzing the diagnostic data to determine an operational problem associated with the media delivery device, removing the first diagnostic agent from the media delivery device, uploading a second diagnostic agent to the media delivery device, in response to a determination that the first diagnostic agent is not functional, receiving a command in the first diagnostic agent to perform at least one of rebooting the media delivery device, upgrading an operating system in the media delivery device, and performing a remedial action related to the network connection, in response to a determination that the network connection is not functional, uploading a second diagnostic agent to the media delivery device, in response to a determination

that the first diagnostic agent is not functional, and removing the second diagnostic agent from the media delivery device.

It is respectfully submitted that the combination of Middeke and Herrbach fails to teach, disclose, or suggest each of the features specified in claim 1. For example, the aforementioned combination fails to disclose removing first and second diagnostic agents in a media delivery device and receiving a command in the first diagnostic agent to perform at least one of rebooting the media delivery device, upgrading an operating system in the media delivery device, and performing a remedial action related to the network connection, in response to a determination that the network connection is not functional. In the Office Action, it is conceded that Middeke fails to disclose removing the first diagnostic agent, uploading a second diagnostic agent to the media delivery device in response to a determination that the first diagnostic agent is not functional, and removing the second diagnostic agent. It is respectfully submitted that Herrbach, which discusses an automated testing system for a telecommunication system, also fails to teach, disclose, or suggest the aforementioned features. In particular, Herrbach discusses a computer for running a suite of tests. Each of the tests include selecting needed resources, establishing initial states for a test case, establishing a test scenario, determining the final states of the telecommunication system under test after completion of the test, cleaning up the test and reporting the results of the test (see Col. 2, lines 5-48). However, Herrbach is silent with respect to receiving a command in the first diagnostic agent to perform at least one of rebooting the media delivery device, upgrading an operating system in the media delivery device, and performing a remedial action related to the network connection, in response to a determination that the network connection is not functional. In particular, the test cases discussed in Herrbach fail to teach, disclose, or suggest any of the aforementioned features.

Based on the foregoing, the combination of Middeke and Herrbach fails to teach, disclose, or suggest each of the features specified in amended claim 1. Therefore, amended claim 1 is and the rejection of this claim should be withdrawn. Claims 2, 4-5, and 36 depend from amended claim 1, specify at least the same features, and are thus allowable for at least the same reasons. Therefore, the rejection of these claims should also be withdrawn. Amended independent claims 6, 20, 21, 25, and 26 specify similar features as claim 1 and thus are allowable for at least the same reasons. Therefore, the rejection of these claims should also be withdrawn. Claims 7-10, 12-19, 22, 24, and 27-35 depend from claims 6, 21, and 26, specify at least the same features, and are thus allowable for at least the same reasons. Therefore, the rejection of these claims should also be withdrawn.

Conclusion

In view of the foregoing amendments and remarks, this application is now in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is invited to call the Applicant's attorney at the number listed below.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 13-2725.

Respectfully submitted,

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Date: August 16, 2007

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